

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Stephen KINGSMORE, et al.

Serial Number: 10/759,216

Filing Date: January 20, 2004

Title: BIOMARKERS FOR SEPSIS

Group Art Unit: 1645

Examiner: Brian J. Gangle

CONFIRMATION NO: 6434

FILED ELECTRONICALLY ON: July 21, 2008

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §1.97

Sir:

An Information Disclosure Statement along with attached PTO/SB/08 is hereby submitted. A copy of each listed publication is submitted, if required, pursuant to 37 CFR §§1.97-1.98, as indicated below.

The Examiner is requested to review the information provided and to make the information of record in the above-identified application. The Examiner is further requested to initial and return the attached PTO/SB/08 in accordance with MPEP §609.

The right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered, is hereby reserved.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

A. ☐ 37 CFR §1.97(b). This Information Disclosure Statement should be considered by the Office because:

☐ (1) It is being filed within 3 months of the filing date of a national application and is other than a continued prosecution application under §1.53(d);

-- OR --

☐ (2) It is being filed within 3 months of entry of the national stage as set forth in §1.491 in an international application;

-- OR --

☐ (3) It is being filed before the mailing of a first Office action on the merits;

-- OR --

☐ (4) It is being filed before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

B. ☒ 37 CFR §1.97(c). Although this Information Disclosure Statement is being filed after the period specified in 37 CFR §1.97(b), above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:

☐ a statement as specified in §1.97(e) provided concurrently herewith;

-- OR --

☒ a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.

C. ☐ 37 CFR §1.97(d). Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:

i. a statement as specified in §1.97(e);

-- AND --

ii. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.

D. ☐ 37 CFR §1.97(e). Statement.

☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(c);

-- AND/OR --

☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(d);

-- AND/OR --

☐ A copy of a dated communication from a foreign patent office clearly showing that the information disclosure statement is being submitted within 3 months of the filing date on the communication is provided in lieu of a statement under 37 C.F.R. § 1.97(e)(1) as provided for under MPEP 609.04(b) V.

E. ☐ Statement Under 37 C.F.R. §1.704(d). Each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart

application that was received by an individual designated in § 1.56(c) not more than thirty (30) days prior to the filing of this information disclosure statement. This statement is made pursuant to the requirements of 37 C.F.R. §1.704(d) to avoid reduction of the period of adjustment of the patent term for Applicant(s) delay.

F. ☒ 37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:

☐ Copies of each of the references listed on the attached Form PTO/SB/08 are enclosed herewith.

-- OR --

☒ Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08 are NOT enclosed.

-- AND/OR --

☒ Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Form PTO/SB/08 are enclosed in accordance with 37 CFR §1.98 (a)(2).

-- AND/OR --

☐ Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).

G. ☐ 37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.

☐ Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.

☐ Pursuant to MPEP 609(B), an English language copy of a foreign search report is submitted herewith to satisfy the requirement for a concise explanation where non-English language information is cited in the search report.

-- OR --

☐ A concise explanation of the relevance of each patent, publication or other information provided that is not in English is as follows: _____

☐ Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation, or a portion thereof, of the non-English language reference(s) is provided herewith.

H. In accordance with the duty of disclosure under 37 C.F.R. § 1.56 and set forth in M.P.E.P. § 2001.06(b), Applicants wish to bring to the Examiner's attention the patents and co-pending United States applications which may be related to the instant application and may be material to patentability, listed below. The chart below is designed to assist the Examiner in the evaluation of the instant application. The status information, compiled from PAIR, is believed to be current as of July 15, 2008, and is subject to change. Copies of the published applications/patents, if applicable, have been cited in a previous Information Disclosure Statement and/or are cited herein and listed on the attached PTO Form SB/08.

No.	U.S. Serial No.	Attorney Docket No.	U.S. Publication No.	PAIR Status	Status Date	Examiner
1.	11/543,312	36671-719.201	US 2007-0092911 A1	Docketed New Case - Ready for Examination	05/09/2007	Patricia Ann Duffy
2.	11/690,767	36671-719.501	US 2008-0050832 A1	Docketed New Case - Ready for Examination	12/29/2007	Patricia Ann Duffy
3.	11/770,608	36671-719.502		Application Undergoing Preexam Processing	06/28/2007	
4.	10/952,275	36671-746.201	US 2005-0164238 A1	Final Rejection Mailed	04/28/2008	Christine E. Foster
5.	11/022,552	36671-746.501	US 2005-0148029 A1	Final Rejection Mailed	07/09/2008	Christine E. Foster
6.	08/832,935	36671-761.201	5,965,375	Patented Case	10/01/1999	Padmavathi Baskar
7.	09/363,960	36671-761.401	6,503,722	Patented Case	12/19/2002	Padmavathi Baskar
8.	09/877,933	36671-763.401	7,052,858	Patented Case	05/10/2006	Jana A. Hines
9.	10/155,163	36671-764.401	6,908,739	Patented Case	6/1/2005	Rodney P. Swartz
10.	09/158,347	36671-765.201	6,207,395	Patented Case	3/9/2001	Jeffrey J. Stucker
11.	09/754947	36671-770.201	6,828,110	Patented Case	11/18/2004	Padmavathi Baskar
12.	10/890083	36671-770.301	7,329,738	Patented Case	1/23/2008	Padmavathi Baskar
13.	10/339744	36671-771.201	7,374,888	Patented Case	4/30/2008	Padmavathi Baskar
14.	10/447300	36671-772.201	7,393,647	Patented Case	6/11/2008	Padmavathi Baskar
15.	11/614,836	36671-774.201	US 2007-0172906 A1	Docketed New Case - Ready for Examination	10/18/2007	David J. Venci

I. ☐ 37 CFR §1.98(d). Copies of patents, publications and pending U.S. patent applications, or other information specified in 37 C.F.R. § 1.98(a) are not provided herewith because:

- ☐ Pursuant to 37 CFR §1.98(d)(1) the information was previously submitted in an Information Disclosure Statement for another application under which this application claims priority for an earlier effective filing date under 35 U.S.C. 120.

Application in which the information was submitted: _____

Information Disclosure Statement(s) filed on: _____

AND

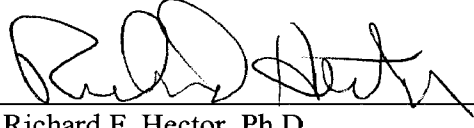
- ☐ The information disclosure statement submitted in the earlier application complied with paragraphs (a) through (c) of 37 CFR §1.98.

J. ☒ *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$180.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No. 36671-747.201).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: July 18, 2008

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